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GATT Ministerial: Issues and Prospects

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GATT Ministerial: Issues and Prospects

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An Intelligence Assessment

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This paper has been prepared by [redacted]
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**GATT Ministerial:
Issues and Prospects**

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Key Judgments

*Information available
as of 22 October 1982
was used in this report.*

When trade ministers from the 87 members of the General Agreement on Tariffs and Trade (GATT) meet in late November the atmosphere will be contentious. The drawn-out recession and the associated decline in world trade have forced governments to become increasingly protective of their own economic interests. The result has been a growing number of disputes among trading partners in which GATT rules and procedures have more often than not been ignored. GATT officials estimate that \$20 billion of world trade is currently being restricted under arrangements not sanctioned by GATT.

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US officials view the ministerial meeting as an opportunity to halt the erosion of GATT authority and have offered proposals designed to limit the spread of protectionist measures and to reduce longstanding trade barriers in areas of growing importance for the future:

- To limit protectionism, the United States is backing an antiprotectionist pledge, development of a code that improves on GATT safeguard rules, which govern how a country may protect domestic industries from injurious imports, and elimination of agricultural export subsidies.
- The United States also wants GATT to undertake work in new areas, including opening up trade in services and high-technology goods, lowering trade barriers between developed and advanced developing countries, and reducing trade barriers caused by investment policies.

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The US approach to these issues is not widely shared. With commodity markets in trouble and industrial countries putting up barriers to manufactured goods, the less developed countries claim that GATT has done little to safeguard their interests. The advanced LDCs, in particular, are not receptive to US proposals that they reduce their own trade barriers in return for concessions from the developed countries. The developing countries have tried to get special treatment for themselves included in most of the major agenda items, are pushing for reform of GATT rules on safeguards and agriculture, and have separately proposed a number of measures, such as further liberalization of trade in tropical products or review and eventual elimination of textile and clothing quotas. If they get no ministerial action on their concerns, LDC alienation from the GATT system will increase, and the Group of 77—the developing country caucus in the United Nations—will be in a better position to attack GATT in UN forums.

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The European nations and Japan tend to view the ministerial as a damage-limiting exercise. We believe they will at best agree to initiate studies of various issues with the aim of avoiding commitments. The Europeans, in particular, have been cool to US proposals both because of the impact of the recession on their economies and their numerous trade disputes with the United States. US sanctions on sales of equipment for the Siberian gas pipeline, for example, have helped sour the reception for a US proposal to open up trade in high-technology goods. It may not even be discussed. US pressure for GATT review of agricultural export subsidies runs up against EC refusal to consider changes in its Common Agricultural Policy. []

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Given the varying concerns of the ministerial participants, we believe the chances are great that action taken will reflect the lowest common denominator on each issue, represented either by the European Community or LDCs. As a result, the United States may have to pursue the whole issue of upholding the existing international trading system at the economic summit this spring. []

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**GATT Ministerial:
Issues and Prospects**

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Overview

The 24-26 November 1982 ministerial conference of the 87-member General Agreement on Tariffs and Trade (GATT) will be confronted with contentious problems created by the world recession. Trade is declining, protectionism is spreading, and doubts are growing about whether the international trade rules established by GATT are capable of having much impact. Growing excess industrial capacity in the West has increased demands to protect or subsidize industries threatened by foreign competition—often mature sectors such as clothing, shoes, and carbon steel but also advanced sectors such as autos, commercial aircraft, or consumer electronics. Mounting unemployment has led OECD governments, often for political reasons, to seek market-sharing arrangements that exporting countries generally accept, knowing that the alternative is usually unilateral imposition of yet stricter import controls.

During most of the period since its founding in 1947 the GATT has been the primary mechanism for sorting out trade disputes and defusing tensions. In recent years, however, the major developed countries have increasingly gone outside of GATT rules for ad hoc bilateral solutions to disputes, frequently not even notifying the GATT Secretariat. We believe the deep recessions since the mid-1970s have raised the economic and political stakes involved in trade disputes to the point where governments avoid rulings that might go against their interests. A recent GATT study estimated that only \$2 billion of the \$22 billion in trade now covered by protectionist restraints has been restricted according to GATT rules. The \$22 billion represents only 1 percent of world trade, but most of it is in politically sensitive areas such as autos or steel.

LDC officials have contended in various GATT meetings that the developed countries are not only ignoring GATT rules but are ignoring issues of importance to the developing countries. They have cited the lack of progress on liberalizing trade in tropical and other

agricultural products and on developing a safeguards code, which would revise rules on what measures a country may take to protect industries threatened by imports. Some LDC delegates, particularly those from Brazil, have challenged developed country representatives to show how GATT is better able to address LDC problems than is the UN Conference on Trade and Development. G-77 spokesmen have publicly identified policy coordination between GATT and UNCTAD, followed by eventual absorption of GATT into UNCTAD, as one of the objectives of Global Negotiations.

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US Concerns

The United States is trying to halt the erosion in GATT authority and is the sole or joint sponsor of most conference initiatives. Specifically, the United States wants a commitment on the part of GATT members to initiate no new trade restrictions not sanctioned by GATT. It is also seeking progress on establishing rules for safeguard measures and on placing limits on agricultural export subsidies. Finally, Washington wants the GATT to start work in new areas, including liberalizing trade in services and high-technology goods, opening up markets for manufactured goods in the advanced developing countries, and reducing trade barriers caused by investment policies. The reluctance of many GATT members to expand GATT activities into new areas and the pressure felt by most delegations to concentrate on the spread of protectionism have lessened chances that all US initiatives will be acted on.

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Major Issues

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Ministerial preparations have focused on six major agenda items: safeguards, agricultural trade, North-South trade issues, dispute settlement, trade in services, and a pledge to freeze and eventually phase out trade restrictions not in accord with GATT rules.

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Because decisions at the ministerial will be made by consensus, we believe that action taken will reflect the lowest common denominator on each issue, represented either by the EC or LDCs. The preparatory process is fluid, however, and the status of some proposals could change significantly before or at the conference.

Antiprotectionist Pledge

Issue. GATT members increasingly are resorting to the use of trade restrictions outside of GATT. Consequently, the draft ministerial statement includes a pledge to put a freeze on and eventually phase out trade restrictive measures that are inconsistent with GATT rules. This spring Prime Minister Fraser of Australia proposed an even stiffer pledge that would block all new import restrictions as well as new government subsidies designed to improve the competitiveness of exports or to reduce competition from imports. It also would phase out measures inconsistent with the GATT.

Positions:

- The United States supports the Australian initiative.
- The EC wants only a general pledge to adhere to GATT rules and avoid actions that threaten the system. US negotiators report that Japan will accept the Australian proposal as long as there is no legal commitment.
- LDCs, such as Brazil, have expressed interest in ministerial endorsement of an antiprotectionist pledge but are skeptical that it will work.

State of Play. Prospects for acceptance of some form of "standstill" and phaseout pledge at the ministerial are good, but we believe most countries would reject any attempt in GATT to demand specific actions. Having made a commitment, however, governments probably would be reluctant to levy new trade restrictions for a while. A West German official told US trade negotiators he thought that some governments have held off on new measures simply because the GATT ministerial was being convened.

Safeguards

Issue. A growing number of countries are resorting to informal safeguard actions—such as negotiated export restraints aimed at protecting domestic industries threatened by imports—in violation of GATT rules. GATT rules state that restrictions must be applied evenly to all imports of a particular commodity regardless of source. While most GATT members agree on the need for changes in the rules, they do not agree on what should be done.

Positions:

- The GATT Secretariat has proposed a compromise allowing application of safeguard measures against specific countries, but only if both the importing and exporting countries agree (consensual selectivity). Existing safeguard actions not sanctioned by GATT, such as informal export restraints or unilateral restrictions, would be terminated within 18 months.
- The United States supports the GATT Secretariat proposal.
- In late September, the EC agreed to accept the Secretariat proposal if the LDCs endorse it, but now insists on the right to take unrestrained, unilateral action. The EC is willing only to discuss procedural improvements and proposals to keep negotiations alive after the ministerial. Japan and Switzerland have accepted the GATT proposal, but the Nordic countries are leaning toward the EC position, according to diplomatic reports.
- The LDCs have publicly opposed selective treatment of imports, even if mutually agreed upon by exporter and importer, since they usually have little leverage in economic negotiations with the industrial countries.

However, diplomatic reports indicate

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that larger LDCs, such as Brazil, India, and South Korea, have privately said they could accept restrictions that are agreed to by the exporting country. These countries' attitudes may not be indicative of other LDCs' positions since their large markets give them a relatively strong bargaining position in one-on-one safeguards consultations with, for example, the EC. []

State of Play. According to State Department reports, the Swiss have suggested that the EC be isolated on this issue through agreement between other developed countries and LDCs. They believe this would lead to pressure on France, the EC hard-liner, to compromise. We believe it will be impossible to isolate the EC as long as the smaller LDCs oppose the GATT Secretariat compromise. In that case, the likely result is agreement on procedural matters, the lowest common denominator. []

Agriculture

Issue. The members of GATT remain polarized over the subsidization and protection of agriculture. The EC and Japan oppose agricultural trade liberalization. The United States, Canada, Australia, and LDC exporters, on the other hand, want the GATT to prohibit export subsidies on agricultural commodities as the Subsidies Code does on industrial products. []

Positions:

- The United States strongly supports a GATT review of agricultural trade. It has proposed that a new agriculture committee be established, but that the Subsidies Committee oversees a freeze on export subsidies to be followed by a five-year phased elimination.
- The EC remains adamantly opposed to agricultural liberalization because it does not want to tamper with the Community's Common Agricultural Policy (CAP). According to US negotiators, the EC is refusing to discuss subsidies, particularly export subsidies, but says it would address subsidies later in an agriculture committee. The Commission claims that efforts to eliminate agricultural subsidies are no more realistic now than they would have been 25 years ago.

- Diplomatic reporting notes that Japanese officials have said they are only willing to initiate GATT studies and establish an agriculture committee but not discuss liberalization.
- The developing countries support an Australian-Chilean proposal for an immediate freeze on new agricultural protection measures and trade-distorting subsidies. According to GATT documents, LDCs will press for eliminating export subsidies, for special treatment of new LDC exporters, and establishment of a GATT agriculture committee. []

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State of Play. For the past 20 years the key sticking point in the dispute over agricultural trade has been the EC's refusal to consider major changes in its CAP. West German officials, who often have pressed for reform of the CAP, have said to US officials they feel that no progress will be made on agriculture as long as the Commission believes that the United States is attacking the CAP. The EC and the agricultural exporting countries are so far apart that deadlock is probable. The agricultural adviser to the EC External Affairs Commissioner has admitted to US officials that the threat of a trade war may be the only way to force the EC to face up to the subsidies issue. []

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Services

Issue. Since the creation of GATT, the economies of developed country members, especially the United States, have evolved from being predominately industrial into a mixture of industrial and service sectors. Exports of services, such as banking, insurance, shipping, or construction, have assumed major importance. Barriers to exports of services, while not new, have become more evident in recent years. The GATT has done virtually nothing to address barriers to services trade. []

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Positions:

- The United States is seeking a commitment at the GATT ministerial to conduct a study of the types of government measures that create trade barriers and an analysis of GATT rules and procedures that may

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be applicable to services trade. The United States has recently agreed to reformulate its proposal to avoid any implied commitment to begin negotiations on services.

- The EC Commission has offered halfhearted support for the US proposal, but the United Kingdom and West Germany support it.
- Among the other industrial nations, Japan, Canada, and the Scandinavian countries have said they could go along with the services study but are not outspoken in their support.
- The developing countries, led by Brazil and India, have generally opposed the services proposal. Their representatives have said that services trade should be removed from the agenda because it is outside the purview of the GATT. In our judgment, LDC opposition to services is probably based on a fear that future development of LDC service industries could be circumscribed by GATT regulations. Singapore has supported the proposal, but is a special case among LDCs in having a strong services sector. [] diplomatic reporting suggest that some LDC opposition to a services study is soft and is being held in line by strong Indian and Latin American opposition. []

State of Play. A study of services issues is likely to be approved; the questions will be how long it lasts and what will follow. The United States wants to start actual negotiations in one or two years, while [] the EC will probably seek to delay the effort through the 1980s. Rather than block an agreement reached by the industrial nations, developing countries may attempt to extract concessions in other areas in exchange for their toleration of a study. []

Dispute Settlement and Consultation

Issue. Performance of the GATT panel system for settling trade disputes has been criticized for the delays caused by panelist selection problems and insufficient staff support, as well as on compliance grounds. Several proposals for technical improvements in the GATT dispute resolution process have been accepted by a preparatory group. The draft

ministerial document contains a pledge by members to rely on GATT mechanisms for settlement of disputes. []

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Positions:

- The United States has proposed a permanent panel mechanism with full-time, impartial panelists. The United States strongly supports the call on the members to rely on GATT mechanisms for settlement of disputes.
- The other industrial countries are supporting the US proposal. The United Kingdom also has advocated greater openness and speed in panel procedures to help panels act as a deterrent to violations of GATT rules, while Australia has recommended that panels adhere more strictly to precedent.

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- [] We believe most developing countries view dispute resolution as an important issue, but they have not articulated clear positions. []

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State of Play. Discussions on the GATT dispute resolution process are moving along well because most participants agree on the need to improve it. One issue that continues unresolved is a proposal to allow the GATT Council to adopt panel reports by a consensus minus two (the two parties before the panel). In discussions with US officials, EC officials have said they prefer to continue to be able to block reports on disputes to which the EC is a party. []

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North-South Trade

Issue. The newly industrialized countries are successful exporters of manufactured goods to OECD markets, and some developed countries want them to assume more of the obligations of the GATT system. The United States, Sweden, and Switzerland have proposed varying versions of North-South trade talks between industrial countries and advanced developing countries. Participating developing countries would be offered tariff concessions in exchange for lowering import barriers. []

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Positions:

- The United States has proposed a North-South negotiating round to better integrate the Third World, particularly NICs, into the world trading system. The US proposal offers advanced LDCs new bilateral preferential tariff rates for goods from which trade preferences have been withdrawn. In return, these LDCs would be required to reduce some of their own trade barriers. The US proposal for North-South negotiations has been presented to an OECD working party that is investigating ideas on North-South trade negotiations and is trying to develop an OECD consensus. The working party has not endorsed any proposal but has reached a consensus that if negotiations take place, they should be held in GATT, not in UNCTAD.

- Other industrial countries have supported the general concept of North-South negotiations but are generally skeptical about whether NICs can be persuaded to accept the US plan. The EC is balking at the US proposal in part, according to West German officials, because of French reluctance to liberalize trade, but the United Kingdom and Italy are also critical. West Germany, the Netherlands, and Denmark support the US proposal. US negotiators report that Japan is willing to go along with the North-South Round proposal but has shown little enthusiasm.
- According to diplomatic reports, LDC reactions to the US proposal for a North-South Round have ranged from negative to cautious interest from some East Asian LDCs, with little clear support. Major LDCs have attacked the proposal as a strategic move by the United States to undermine the Global Negotiations. [redacted]

State of Play. Yugoslav and other developing country officials have told US officials that the US proposal abandons the rights already accorded LDCs under current trade preference programs. Many LDCs are suggesting that the scope of negotiations be broadened to include a reduction in developed country nontariff barriers as well as reductions in tariffs on additional LDC products. In light of opposition from major

LDCs and the EC's unenthusiastic response to the proposal, we concur in the judgment of some US officials that all that can be expected is a limited commitment to prepare for negotiations. [redacted]

Trade-Related Investment

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Issue. The GATT has never addressed the problem of trade-distorting investment practices—performance requirements and investment incentives—that can have considerable impact on trade flows. The United States has proposed that the GATT study the problem because it believes that resort to these interventionist and nationalist measures is spreading and, if not checked, will intensify as conventional trade barriers are reduced. [redacted]

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Positions:

- The United States initially proposed that the GATT examine the trade impact of performance requirements (local content rules, export requirements, and employment requirements) as well as investment incentives. The work program would also study ways the GATT could deal with these problems. To make the proposal more acceptable to critics, the United States now is seeking only a study of performance requirements.
- The EC, Japan, and Canada have approved the revised US proposal. 25X1
- Developing countries, following the lead of Brazil and India, have opposed inclusion of this item on the ministerial agenda. Brazil's Foreign Minister, in a letter to US officials, stated that the GATT has "no competence whatsoever on investment issues" and suggested that a study, if performed, would most appropriately involve other international institutions looking at the practices of multinational corporations rather than at government policies. According to embassy reporting, the governments of many advanced LDCs see nothing wrong with export performance requirements or local content rules and freely admit that trade distortions created by them work to their benefit. [redacted]

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LDCs and the GATT

Two-thirds of GATT's members are developing countries, although such major ones as Mexico, Venezuela, China, and Saudi Arabia do not belong. LDC members benefit from GATT's most-favored-nation (MFN) provisions but are not obligated to undertake reciprocal liberalization of their own trade regimes. Moreover, the GATT helped stimulate the establishment of the generalized system of trade preferences (GSP) in the 1970s, which offers LDCs below-MFN or zero tariff rates on a wide range of less import-sensitive industrial and agricultural products. The Tokyo round of multilateral trade negotiations (MTN)—concluded in 1979—also provided a number of benefits to LDCs: average developed country MFN tariff reductions of 33 percent to be phased in through 1989, inclusion of provisions in nontariff barrier codes specifying special treatment for developing countries, and greater discipline on developed country use of nontariff barriers. Developing countries, however, argue that the GATT has not done enough to foster LDC exports.

In preparatory sessions for the ministerial LDC representatives have endorsed three major agenda items: equitable rules for safeguard measures; elimination

of agricultural protection measures and export subsidies; and a halt to new trade restrictions outside GATT rules. Individual countries have suggested several other topics for ministerial discussion, but none has been strongly supported by representatives from developed or other LDC countries. LDCs have focused on attaching special treatment for LDCs onto most issues before the ministerial. Other LDC proposals include: a general surveillance mechanism for nontariff barriers; an exemption for LDCs from the minimum interest rates of the OECD Export Credit Arrangement; special treatment for tropical products; a ban on exports of substances that are prohibited in the exporting country; elimination of tariff escalation (higher industrial country tariffs on LDC manufactured exports than on primary commodities or semi-finished products); and a study with a view toward eliminating GATT's Multifiber Arrangement governing trade in textiles and apparel. Diplomatic reports indicate that some reference of most of these issues probably can be incorporated into the ministerial document without opposition from the industrial countries.

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State of Play. The US investment initiative has been on the back burner during preparations for the ministerial, and in our judgment, the earlier version would not have surfaced at the meeting. While the EC has softened its stand on an investment study over the past three months—from opposition to any study before 1984 to modest support—the developing nations remain opposed and will be difficult to budge. [redacted]

High-Technology Goods

Issue. Most nations view advanced technology industries as critical to their economic growth and international competitiveness. Public recognition of the importance of advanced technology has led developed

and newly industrializing nations to devote increasing resources to these knowledge-intensive industries. Some countries have instituted trade and industrial policies that promote these industries and that may have already led to distortions in trade in high-technology products and services. [redacted]

Positions:

- The United States is seeking GATT approval of a study to examine trade-distorting government practices such as R&D support or industry targeting,

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how GATT rules address barriers to high-technology trade, and whether modifications of existing rules are needed.

- Throughout most of the planning for the GATT ministerial EC officials have been unenthusiastic about the high-technology initiative, suggesting that existing GATT articles and codes cover the issue adequately. We believe the French, in particular, are sensitive to even a potential challenge to R&D subsidies. According to State Department reporting, Switzerland is concerned that a high-technology effort might eventually legalize subsidies in high-technology sectors.
- Japan, whose practices are among the targets of the US effort, has offered low-key support for the US initiative, letting the EC carry the opposition.
- The developing countries oppose GATT treatment of high-technology goods as a separate sector.

State of Play. This issue has been caught up in the US-EC dispute over sanctions relating to the Siberian gas pipeline. EC representatives have openly derided US attempts to open up trade in high-technology goods while restricting sales of such goods to the USSR. Progress in resolving the sanctions dispute may determine whether the US high-technology initiative is put on the ministerial agenda.

Implications for the United States

We believe US negotiators at the ministerial will have a tough time. Current trade disputes between the United States and the EC may overflow into many agenda items and make bargaining more difficult. Disagreements over agricultural subsidies and barriers, steel exports, the use of voluntary restraint agreements, and the Siberian pipeline sanctions have promoted an EC siege mentality and hardened its negotiating stance. The pipeline dispute, for example, was announced by EC officials as the reason for EC efforts to delay ministerial preparations in June and July, and, along with concerns of some EC officials that the meeting would accomplish nothing, was probably behind suggestions by some Commission

officials in August and September that the ministerial should be postponed. With intense preparations now under way these delaying tactics have disappeared, but continuing European reticence on most of the issues supported by the United States may, in part, reflect irritation with the United States over the pipeline controversy.

The LDCs, for their part, have already tried to block US initiatives on investment and high-technology trade and have managed to derail another proposal to halt trade in counterfeit merchandise. Opposition from LDCs also delayed until October formal presentation of the US North-South Round proposal. Unencouraging prospects for progress on agriculture and safeguards, both of interest to LDCs, may add to their disenchantment with the GATT and the ministerial conference, complicating bargaining efforts. If LDCs see safeguards and agriculture yielding little for them, they may aggressively promote one or more minor issues, such as elimination of tariff escalation or further liberalization of trade in tropical products, in order to salvage something from the conference.

Failure to gain acceptance of the North-South Round proposal would not extinguish this issue of importance to the United States. Continuing efforts in the OECD to address the problem of how to persuade the NICs to gradually lower barriers to imports of manufactured goods may result in a unified OECD stance on North-South negotiations. Such a proposal could be more difficult for NICs to reject than the current US proposal, which has suffered from initial LDC reactions based on G-77 antipathy to graduation—the process of gradually assuming developed country responsibilities—and from having to compete with a cluttered ministerial agenda.

The US interest in preserving the GATT as the primary international trade institution could be threatened by further alienation of LDCs from the GATT. If the LDCs are able to characterize the 1982 GATT ministerial as a failure, the G-77 would almost certainly increase their efforts, at the Global Negotiations or at UNCTAD VI in June 1983, to wrest

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authority away from GATT and place it in UNCTAD. Acceleration of these efforts could lead to greater fragmentation of world trade policy formulation, using devices such as trade negotiations among developing countries under UNCTAD. []

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The outcome of the ministerial also will have an impact on future negotiations among the developed countries. The conference may be the best chance for the foreseeable future to strengthen GATT authority. If the ministerial fails, the question of how to defend the principle of free trade and the international trading system will undoubtedly have to be addressed by the leaders of the seven major industrial countries at their economic summit this May in Williamsburg. The summit participants, however, would likely be tied down by the same economic problems underlying disagreement at the ministerial. If the GATT ministerial achieves any success in blunting the spread of protectionist measures, the industrial countries—and possibly the summit participants—will still face the challenge of how to sustain the momentum established. []

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